

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 176 OF 2019
IN
MISC. CIVIL APPLICATION (ST.) NO. 993 OF 2018
(R.C. No. 1673 of 2018)

Priyanka Prashant Bharekar ... Applicant
Vs.
Prashant Maruti Bharekar ... Respondent

Mr. Suryajeet P. Chavan i/b. Mr. Nilesh S. Patil, Advocate for the applicant.

CORAM: **K.K. TATED, J.**
DATE: **20th June, 2019**

P.C.:

When the matter was called out, no one appeared on behalf of the applicant, hence Civil Application dismissed for non-prosecution.

2. In second session, learned counsel Mr. Chavan for the applicant mentioned this matter.

3. Considering the submissions made by the learned counsel for the applicant, earlier order of dismissal is recalled and the matter is restored on file for hearing it on merits.

4. Learned counsel for the applicant submits that by this Civil

Application, the Applicant is seeking to set aside the conditional order dated 2nd July, 2018 passed by the Registrar (Judicial-II) by which Miscellaneous Civil Application (St.) No. 993 of 2018 stood dismissed for non-removal of office objections. He submits that they have good chance of success in the present proceedings. He submits that inadvertently it remained on the part of the applicant to remove all office objections. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing the Civil Application and set aside the order dated 2nd July, 2018 and matter be placed on board for hearing on its own merits. The learned counsel for the applicant submits that if the present Application is not allowed, irreparable loss will be caused to the applicant.

5. Considering the submissions made by the learned counsel for the Applicant and as the matter appeared before the Registrar (Judicial-II) on 20th April, 2018, 11th June, 2018 and 2nd July, 2018, when no one appeared on behalf of the applicant, the reasons mentioned in Civil Application, I am satisfied that the Applicant has made out a case for allowing Civil Application but at the same time, the Applicant has to pay costs of Rs.2,500/-. Hence, following order is passed:

- i) Civil Application is allowed in terms of prayer clauses (a), (b) and (c), which reads thus:
 - a) this Hon'ble Court be pleased to quash and set aside the order dated 2.7.2018 passed by Registrar (Judicial-II);
 - b) this Hon'ble Court be pleased to restore the Misc. Civil Application (St.) No. 993 of 2018 to its original file and the said matter be heard on its own merits;
 - c) this Hon'ble Court may be pleased to condone the delay of 213 days in filing the present Civil Application for restoration;
- ii) The Applicant is directed to remove all office objections on or before 20th July, 2019, failing which the Miscellaneous Civil Application (St.) No. 993 of 2018 shall stand dismissed without further reference to the court.
- (iii) The applicant to pay costs of Rs.2,500/-.
- (iv) The costs to be deposited in the office of Kirtikar Law Library, 1st floor, High Court, Mumbai on or before 12th July, 2019 and place a receipt thereof on record, failing which the Civil Application shall stand dismissed without

referring back to the Court.

- (v) Civil Application stands disposed of accordingly.

(K.K. TATED, J.)